

SENATE BILL REPORT

SB 6349

AS PASSED SENATE, FEBRUARY 18, 1992

Brief Description: Defining unlawful factoring of credit card transactions.

SPONSORS: Senators von Reichbauer, Owen and Pelz

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators von Reichbauer, Chairman; Erwin, Vice Chairman; McCaslin, Moore, Owen, Pelz, Rasmussen, Sellar, Vognild, and West.

Staff: Traci Anderson (786-7452)

Hearing Dates: February 4, 1992; February 6, 1992

BACKGROUND:

Under current state law, factoring of credit card transactions is not illegal.

Factoring occurs when a merchant (the factor) who has a merchant agreement with a financial institution processes the credit card transactions for a second merchant who does not have a merchant agreement with a financial institution. This merchant often pays a fee (usually a certain percentage of the total sales processed) to the merchant who factors the credit card transactions.

It is reported that certain "disreputable" businesses frequently utilize factoring when conducting business transactions. It is also reported that transactions carried out by such businesses often result in significant losses of time and money to consumers who do not receive the expected product or service ordered and to the financial institutions which provide chargebacks to these customers and must then seek reimbursement for the chargebacks from the merchants who processed the transactions.

It is suggested that outlawing factoring could help to reduce the operation of "disreputable" businesses in this state.

SUMMARY:

Factoring of credit card transactions is established as a class C felony.

A person can be found guilty of factoring if he or she intentionally or knowingly: presents to or deposits with, or causes another to present or deposit with a financial

institution for payment, a credit card transaction record not resulting from a transaction between himself or herself and the cardholder; employs, solicits, or otherwise causes a merchant or employee, representative or agent of a merchant to present or deposit with a financial institution for payment a credit card transaction record that is not the result of a credit card transaction between the cardholder and the merchant; or employs, solicits, or otherwise causes another to become a merchant for the purposes of engaging in activities made unlawful by this act.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

This bill will help to keep "fly by night" operators out of the state of Washington.

TESTIMONY AGAINST: None

TESTIFIED: Trevor Sandison, Washington Bankers' Association (pro);
Gary Gardner, Washington Credit Union League (pro)